IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

OP.No. 1885 of 2003(Y)

PETITIONER:

NILESWAR GRAMA PANCHAYAT TELEPHONE SUBSCRIBERS ASSOCIATION, EMBASSY BUILDING, RAJA ROAD, NILESWARAM, KASARGOD DISTRICT, REPRESENTED BY ITS CONVENOR, C.MOHANAN.

BY ADV. SRI.V.PREMCHAND

RESPONDENTS:
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1. THE CHIEF GENERAL MANAGER, BHARAT SANCHAR NIGAM LTD., KERALA CIRCLE, THIRUVANANTHAPURAM.

2. THE GENERAL MANAGER, BHARAT SANCHAR NIGAM LTD., KANNUR-2.

3. THE SUB DIVISIONAL ENGINEER, BHARAT SANCHAR NIGAM LTD., OFFICE OF THE GENERAL MANAGER, TELECOMMUNICATIONS, KANNUR-2.

4. THE SECRETARY, NILESWARAM GRAMA PANCHAYAT, NILESWARAM, KASARGOD.

BY ADV. SRI.B.JAYASANKER, SC, BSNL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE REPRESENTATION DATED 24.9.2002 FILED BEFORE THE CHIEF GENERAL MANAGER.

EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 10.7.2002 FILED BEFORE THE GENERAL MANAGER.

EXT.P3 TRUE COPY OF THE REPLY DATED 14.8.2002

EXT.P4 TRUE COPY OF THE BILL DATED 7.4.2002

EXT.P5 TRUE COPY OF THE BILL DATED 7.8.2002

EXT.P6 TRUE COPY OF THE BILL DATED 7.4.2002

EXT.P7 TRUE COPY OF THE BILL DATED 7.5.2002

EXT.P8 TRUE COPY OF THE NEWS ITEM APPEARED IN THE NEWSPAPER DESABHIMANI IN ITS KANNUR EDITION DATED 25.9.2002

EXT.P9 TRUE COPY OF THE RESOLUTION DATED 21.1.2002 PASSED BY THE NILESWARAM GRAMA PANCHAYAT

RESPONDENTS' EXHIBITS:

EXT.PR1(A) TRUE COPY OF EXTRACT OF DOT NEW DELHI ORDER NO.3-5/99 r&c DT.13.4.99

EXT.R1(B) TRUE COPY OF EXTRACT OF CENSUS OF INDIA 2001 – SERIES-33 KERALA PROVISIONAL POPULATION TOTALS-PAPER 2 OF 2001 RURAL-URBAN DISTRIBUTION

EXT.R1(C) TRUE COPY OF LETTER NO.TR/93-CE 2002 DT.28.05.2002 OF THE CHIEF GENERAL MANAGER, BSNL, THIRUVANANTHAPURAM

EXT.R1(D) TRUE COPY OF ORDER NO.5-10/2001-R & C DT.19.10.2002 OF BSNL, NEW DELHI

EXT.R1(E) TRUE COPY OF ORDER NO.22-24/2002-PHB DT.16.10.2002 OF BSNL, NEW DELHI.

/ TRUE COPY /

H.L.Dattu,C.J. & K.T.Sankaran,J.

O.P.No.1885 of 2003

Dated, this the 14th day of August, 2007

JUDGMENT

K.T.Sankaran,J.

The reliefs prayed for in the Original Petition are the following:

> "(i) Call for records leading to Ext.P3 and quash the same by a writ of certiorari or any other appropriate writ, direction or order.
>
> (ii) Declare Ext.P3 as illegal, unjust and unconstitutional.
>
> (iii) Issue a writ of mandamus or any other appropriate writ, direction or order directing respondents 1 to 3 to grant all the benefits of a rural subscriber to the residents of Nileswaram Grama Panchayat.
>
> (iv) Issue a writ of mandamus or any other appropriate writ, direction or order directing respondents 1 to 3 to treat Nileswaram Grama Panchayat as a rural area in terms of the provisions of the Constitution of India.
>
> (v) Issue an interim direction directing respondents 1 to 3 to treat residents of Nileswaram Grama Panchayat as rural subscriber and grant them all consequential benefits".

(2) Sri.B.Jayasankar, learned counsel appearing for respondents 1 to 3, says that the issue involved in this case is covered by a Division Bench decision of this Court in O.P.No.21738 of 2002-S, decided on 29.07.2003.

(3) In view of the judgment in O.P.No.21739 of 2002, this Original Petition is dismissed.

(4) Consequently, all pending interlocutory applications are dismissed.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-